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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,339	07/08/2003	Clement Robertson	56162.000419	7869

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HUNTON & WILLIAMS LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

EXAMINER
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KANG, SUK JIN

ART UNIT	PAPER NUMBER
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2609

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/614,339	ROBERTSON, CLEMENT	
	Examiner	Art Unit	
	Suk Jin Kang	2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/19/03 and 8/23/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Applicant's claim for domestic priority under 35 U.S.C. 1199(e) is acknowledged.

### ***Information Disclosure Statement***

2. The information disclosure statements submitted on November 11, 2003 and August 23, 2004 have been considered by the Examiner and made of record in the application.

### ***Drawings***

3. The drawings are objected to according to 37 CFR 1.84(e) and 37 CFR 1.84(l) because Figures 14-19 include copy machine marks and characters and lines are not uniformly thick. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date

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of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. **Claims 1-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nichols et al. (U.S. Patent # 6,356,557 B1)** in view of **Joshi et al. (U.S. Patent # 6,006,017)**.

Consider **claims 1 and 12**, Nichols et al. disclose a method and system for optimizing cell available (CLAV) status polling of a plurality of physical interface addresses, the method and system comprising the steps of: polling a plurality of PHY addresses to determine CLAV status (column 3 lines 56-61); receiving the CLAV status for each one of the plurality of PHY addresses (column 1 lines 38-63, column 3 lines 46-55); and re-polling each PHY address with a CLAV status (column 5 lines 7-13), but does not expressly disclose determining whether the CLAV status could change for each PHY address.

In the same field of endeavor, Joshi et al. disclose determining whether the CLAV status could change for each PHY address (column 7 lines 19-36).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate CLAV statuses that could change as taught by Joshi et al. with the method and system as disclosed by Nichols et al. for the purpose of improving polling efficiency.

Consider **claim 23**, Nichols et al. disclose polling a plurality of PHY addresses to determine CLAV status (column 3 lines 56-61); receiving the CLAV status for each one of the plurality of PHY addresses (column 1 lines 38-63, column 3 lines 46-55); and poll each PHY address with a CLAV status (column 5 lines 7-13), but does not expressly disclose a computer readable medium comprising a set of instructions for optimizing cell

available (CLAV) status polling of a plurality of physical interface addresses and being adapted to manipulate a processor and determining whether the CLAV status could change for each PHY address.

In the same field of endeavor, Joshi disclose a computer readable medium comprising a set of instructions for optimizing cell available (CLAV) status polling of a plurality of physical interface addresses and being adapted to manipulate a processor (column 16 lines 26-40) and determining whether the CLAV status could change for each PHY address (column 7 lines 19-36).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate CLAV statuses that could change and a computer readable medium as taught by Joshi et al. with the method and system as disclosed by Nichols et al. for the purpose of improving polling efficiency.

Consider **claims 2, 13, and 24**, and **as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, furthermore, Joshi et al. disclose wherein the CLAV status that could change comprises an inactive CLAV status (column 7, lines 19-36).

Consider **claims 3, 14, and 25**, and **as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the CLAV status that could change comprises a completed cell transfer (column 1 lines 55-67).

Consider **claims 4, 15, and 26**, and **as applied to claims 2, 13, and 24 above**, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention,

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furthermore, Joshi et al. disclose re-polling addresses with an inactive CLAV status (column 4 lines 29-36, column 6 lines 20-31).

Consider **claims 5, 16, and 27**, and **as applied to claims 3, 14, and 25 above**, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the step of re-polling further comprises the step of: re-polling addresses having completed a cell transfer (column 5 lines 7-24).

Consider **claims 6, 17, and 28**, and **as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, furthermore, Joshi et al. disclose wherein re-polling of PHY addresses having an active CLAV status are avoided (column 8 lines 19-38).

Consider **claims 7, 18, and 29**, and **as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the CLAV status comprises ability to receive a cell (column 1 lines 38-63).

Consider **claims 8, 19, and 30**, and **as applied to claims 7, 18, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose wherein a PHY address is re-pollled within at least four bytes of a previous cell transfer (column 3 lines 62-67, column 4 lines 1-3).

Consider **claims 9, 20, and 31**, and **as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, furthermore, Joshi et al. disclose wherein the CLAV status comprises the ability to transmit a cell (column 2 lines 25-41, column 5 lines 17-38).

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Consider **claims 10, 21, and 32, and as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose the claimed invention, furthermore, Joshi et al. disclose wherein each PHY address with an inactive CLAV status is re-polled until the PHY address indicates an active CLAV status (figure 7, column 9 lines 1-43).

Consider **claims 11, 22, and 33, and as applied to claims 1, 12, and 23 above**, respectively, Nichols et al., as modified by Joshi et al., disclose wherein the physical interface is a UTOPIA (abstract, column 3 lines 1-21).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

a) Hann et al. (U.S. Patent # 6,449,655 B1)

b) Suwa (U.S. Patent Application Publication # 2003/0043849 A1)

8. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314



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9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Perez-Gutierrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Suk Jin Kang  
S.J.K./sjk

May 1, 2007

  
RAFAEL PEREZ-GUTIERREZ  
SUPERVISORY PATENT EXAMINER

5/2/07